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mail, return receipt requested, and shall contain:

(1) A statement that the debt is owed and an explanation of its nature and amount;

(2) The agency's intention to collect the debt by administrative offset against amounts due and payable to the debtor from the Civil Service Retirement and Disability Fund or by use of a collection service to recover the delinquent debt;

(3) An explanation of interest, penalties, and administrative charges, including a statement that such charges will be assessed unless excused in accordance with 4 CFR 101.1 *et seq.*;

(4) The former employee's rights to inspect, request, and copy Government records relating to the debt (if the former employee is unable to physically inspect the Government records, the agency will reproduce copies of the records and may charge for those copies);

(5) The opportunity to enter into a written agreement with the agency to establish a schedule for the voluntary repayment of the debt;

(6) The right to a hearing conducted by an impartial hearing official concerning the existence or amount of the debt and the repayment schedule, if it was not established by a written agreement between the former employee and the creditor agency;

(7) The method and time period for petitioning for a hearing;

(8) A statement that the timely filing of a petition for a hearing (on or before the 15th day following receipt of the written notice) will stay the commencement of collection proceedings, together with instructions on how and where to file a petition;

(9) A statement that a final decision on the hearing will be issued not later than 60 days after the filing of the petition requesting the hearing unless the former employee requests, and the hearing official grants, a delay in the proceedings;

(10) A statement that knowingly false or frivolous statements, representations, or evidence may subject the former employee to appropriate criminal penalties (i.e., for false certification, etc.);

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(11) A statement of other rights and remedies available to the former employee under statutes or regulations governing the program for which the collection is being made; and

(12) Unless there are contractual or statutory provisions to the contrary, a statement that amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the former employee.

[56 FR 32333, July 16, 1991, as amended at 64 FR 53267, Oct. 1, 1999]

§ 1017.5 Hearing procedures.

(a) Upon the Administrative Law Judge's determination of an employee's compliance with §§ 1017.4(b)(8) or 1017.4(c)(7) of this part, whichever is applicable, he/she shall set the time, date, and location for the hearing, paying due consideration to convenience to the employee.

(b) All significant matters discussed at the hearing shall be documented, although a verbatim transcript of the hearing shall not be made.

(c) The Administrative Law Judge may exclude any evidence he/she deems irrelevant, immaterial, or unduly repetitious.

(d) Any party to a hearing under these regulations is entitled to present his or her case or defense by oral or documentary evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(e) The Board has the initial burden of proof as to the existence and amount of the debt.

(f) The employee requesting the hearing shall bear the ultimate burden of proof.

(g) The evidence presented by the employee must prove that no debt exists or cast sufficient doubt that reasonable minds could differ as to the existence or amount of the debt.

(h) Where the employee files a petition for a hearing contesting the offset schedule imposed by the Board, the Administrative Law Judge shall take into consideration all relevant factors as to the employee's financial situation in determining whether said offset schedule should be altered.

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(i) Any party to a hearing under these regulations is entitled to be accompanied, represented, and advised by counsel, as well as to appear in person or by or with counsel.

(j) The Administrative Law Judge shall issue a final written decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing, as stated in § 1017.4(b)(10) or § 1017.4(c)(9) of this part, whichever is applicable.

§ 1017.6 Result if employee fails to meet deadlines.

An employee will not be granted a hearing and will have his/her disposable pay offset in accordance with the Board's offset schedule if the employee:

(a) Fails to file a petition for a hearing in conformity with the requirements of § 1017.4(b)(8) or § 1017.4(c)(9) of this part, whichever is applicable. However, failure to file within the requisite time period set out in § 1017.4(b)(8) or § 1017.4(c)(9) of this part whichever is applicable, will not result in denial of a hearing or in immediate offset, if the Administrative Law Judge excuses the late filing if the employee can show that the delay was because of circumstances beyond his/her control or because of failure to receive notice of the filing deadline.

(b) Is scheduled to appear and fails to appear at the hearing without good cause.

§ 1017.7 Written decision following hearing.

(a) Written decisions provided after a request for a hearing will include:

(1) A statement of the facts presented to support the nature and origin of the alleged debt;

(2) The Administrative Law Judge's analysis, findings, and conclusions, in light of the hearing, concerning the employee's or the Board's grounds;

(3) The amount and validity of the alleged debt; and

(4) The repayment schedule (including percentage), if applicable.

(b) The Administrative Law Judge's decision does not preclude an employee from requesting a waiver of a salary payment under 5 U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 716, or in any way questioning the amount or validity of a

debt by submitting a subsequent claim to GAO in accordance with procedures prescribed by GAO.

§ 1017.8 Exception to entitlement to notice, hearing, written responses and final decisions.

The Board shall except from the provisions of § 1017.4 through § 1017.7 any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a Federal benefits program, requiring periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less.

§ 1017.9 Coordinating offset with another Federal agency.

(a) *The Board as creditor agency.* When the Chief, Section of Financial Services, determines that an employee of another Federal agency owes a delinquent debt to the Board, he/she shall:

(1) Arrange for a hearing upon proper petitioning by the employee;

(2) Certify in writing to the other Federal agency that the employee owes the debt, the amount and basis of the debt, the date on which payment is due, the date the Government's right to collect the debt accrued, that the Board's regulations for administrative offset have been approved by the Office of Personnel Management, and that the provisions of 4 CFR 102.3(f) have been fully complied with;

(3) If collection must be made in installments, advise the paying agency of the amount or percentage of disposable pay to be collected in each installment;

(4) Advise the paying agency of any action taken under 5 U.S.C. 5514(a);

(5) If the employee is in the process of separating, the Board must submit its debt claim to the paying agency as provided in this part. The paying agency must certify any amounts already collected, notify the employee, and send a copy of the certification and notice of the employee's separation to the creditor agency—if the paying agency is aware that the employee is entitled to money from the Civil Service Retirement and Disability Fund, it must certify to the Office of Personnel Management (OPM) that:

(i) The debtor owes the U.S. a debt, including the amount of that debt;